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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/943,532	08/30/2001	Nils E. Kongmark	MS0324US.CIP (#90562)	9632

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EXAMINER

JASTRZAB, KRISANNE MARIE

ART UNIT	PAPER NUMBER
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1744

DATE MAILED: 09/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/943,532

Applicant(s)

KONGMARK, NILS E.

Examiner

Krisanne Jastrzab

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 3/27/2002 2/8/02
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_

## **DETAILED ACTION**

### ***Specification***

The abstract of the disclosure is objected to because of the inclusion of legal phraseology. Correction is required. See MPEP § 608.01(b).

The disclosure is objected to because of the following informalities: the continuing information on the first page of the instant specification should be updated to reflect the current status of the parent application.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4-9, 13-14 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Drake U.S. patent No. 5,223,231.

Drake teaches microwave sterilization of infectious medical waste wherein the waste is prepared for the sterilization and divided into a batch of set size by filling a degradable container and placing the container within the sterilization vessel. The container is placed within a drawer which then slides into the interior of the vessel for sterilization (column 6, lines 30-35). Within the vessel the container is contacted with water and then subjected to microwave radiation sufficient to raise the temperature of the waste to an effective sterilization temperature (column 6, lines 47-55). The chamber

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is purged with sterilized air prior to opening, and the floor thereof opens to send the sterilized waste to a conveyor transport it away, without exposure to the atmosphere (column 6, lines 62-68 and column 7, lines 1-10). Drake further teaches the application of the microwaves within the instantly claimed ranges for microwaves, temperature and pressure (column 7, lines 25-50 and column 8, lines 5-10).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 2-3 and 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Drake as applied to claims 1, 4-9, 13-14 and 16 above, and further in view of Katschnig et al., U.S. patent No. 5,098,665.

Katschnig et al., teach the provision of multiple microwave emitting means for sterilization of infectious medical waste because they can be configured to ensure

complete coverage of the area enclosing the waste to be treated thereby optimizing the sterilizing contact with the waste (column 7, lines 1-15).

It would have been obvious to one of ordinary skill in the art to employ plural microwave emitting means as taught in Katschnig et al., in the system of Drake because it would ensure optimal radiation contact with the waste for effective sterilization.

Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pappas U.S. patent No. 5,348,235 in view of Brent U.S. patent No. 5,124,125.

Pappas teaches substantially the invention as claimed, namely the microwave sterilization of infectious medical waste wherein a closed system is provided without exposure to the atmosphere (column 2, lines 49-53) and the waste is prepared for sterilization and divided into a specifically sized batches within drums of the apparatus and heated, after heating they are ground to a particular size and loaded into a "lazy susan" type of receiving vessel for microwave sterilization. The microwave sterilization is effected with exposure to a plurality of microwave elements after being sprayed with a mist of water. The temperature of the waste reaches 275°F during microwave sterilization. See column 3, line 52 through column 4, line 68. Pappas is silent as to the actual microwave range applied.

Brent teaches the conventionality of applying microwaves within the range instantly claimed for sterilization purposes, including those up to 2.4 GHz, and clearly acknowledges that choosing the microwave range is a matter of design choice (see column 4, lines 30-33).

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It would have been well within the purview of one of ordinary skill in the art to apply the microwaves in the system of Pappas within a range such as that taught in Brent, because Brent clearly teaches that range to be conventional and the microwave application a matter of design choice, therefor all being effective for sterilization of infectious waste.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Krisanne Jastrzab whose telephone number is 571-272-1279. The examiner can normally be reached on Mon.-Wed. 6:30am-4:00pm and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert J. Warden can be reached on 571-272-1281. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Krisanne Jastrzab  
Primary Examiner  
Art Unit 1744

September 24, 2004